IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

OP.No. 38325 of 2002(K)

PETITIONER:

T.T.MICHEAL ANTONY, CHAIRMAN,
PRIYADARSINI SOCIETY, REGISTRATION NO.K/108/85,
PULIYANNUR (P.O), PALA, KOTTAYAM DISTRICT.

BY ADV. SRI.R.SUDHIR

RESPONDENTS:
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1. THE STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVT.,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE ADDITIONAL SALES TAX OFFICER-III,
PALA, KOTTAYAM DISTRICT.

BY GOVERNMENT PLEADER SRI.PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.64625/2002 IN O.P. NO.38325/2002

DISMISSED:

15.11.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF CERTIFICATE ISSUED BY THE DISTRICT KHADI AND VILLAGE INDUSTRIES OFFICE, KOTTAYAM.

P2: TRUE EXTRACT COPY OF NOTIFICATION SRO NO.287/64 ISSUED BY THE GOVT.

P3: TRUE EXTRACT OF THE SRO 359/92 DT.31.3.92.

P4: TRUE COPY OF JUDGMENT OF THIS HON'BLE COURT IN TRC 67/1996 DT.18.6.96.

P5: TRUE COPY OF CERTIFICATE DT.10.7.96 ISSUED BY THE PROJECT OFFICER, KHADI AND VILLAGE INDUSTRIES OFFICE.

P6: TRUE COPY OF REPLY DT.2.2.99 SENT BY R1 TO THE PETITIONER.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.38325 of 2002

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Dated this the 15th day of November, 2007.

JUDGMENT

Heard counsel for the petitioner and Government Pleader. The petitioner is claiming sales tax exemption based on Ext.P2 notification and consequent relief in the form of refund. However, it is on record that the claim was made in the assessment and the assessment got confirmed in appeal and in revision by this court vide Ext.P4 order. Since the very same issue is covered by Division Bench judgment of this court in revision proceedings, O.P. is not maintainable as res judicata stands against it. The O.P. is accordingly dismissed.

C.N.RAMACHANDRAN NAIR
Judge

pms